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RECENT LEGAL LITERATURE

THE AMERICAN CONSTITUTIONAL SYSTEM. By Westel Woodbury Willoughby, Associate Professor of Political Science at the Johns Hopkins University. New York: The Century Co., 1904. pp. 318.

This book constitutes an introduction to a series of eight volumes, issuing under the general title, "The American State Series," the series being prepared under the editorial supervision of the author of the volume under review. The subject covered by Professor Willoughby is a wide and intricate one, and is full of speculative difficulties which are too likely to carry an author far afield unless he is constantly on his guard against digression into philosophical discussions. And we confess to having felt some misgivings on this very point when taking up the book, in view of the very able but academic treatise on "The Nature of the State," published by him some eight or nine years ago, in which his close logical power and wide acquaintance with abstract theories of political philosophy were devoted to a purely speculative end. But such misgivings have proved wholly groundless. Indeed, this book excellently demonstrates how valuable a thorough mastery of elementary philosophical concepts may become, as a groundwork for a lucid analysis and exposition of practical political problems. Throughout the volume the main purpose is never lost sight of, and there is no confusing use of technical terminology, no profitless rambling into the esoteric domain of abstract politics, no tendency to subordinate clearness and directness to mere profoundness of scholarship. Professor Willoughby has undertaken to give a brief and logical account of the origin, growth and character of our constitutional system, and he has succeeded admirably well.

Enough is said by way of introduction respecting the nature of a federal state to give a sufficient general setting for the particular topics that follow. The question of the divisibility or non-divisibility of sovereignty, as between the state and national governments, which has been the occasion of so much useless and tiresome controversy, is clearly, and, we think, satisfactorily disposed of, both theoretically and historically, and in connection therewith, the question of the right of nullification and secession.

But the chief merit of the book—and here, of course, it fulfills its main purpose—is the clearness and ease with which it unravels the tangled elements of our complex system of constitutional government, and presents to the reader, in delightful simplicity, a well balanced and co-ordinated survey of the whole. What are the rights of the states as against the national government, and vice versa? Within what limits is each supreme? What power of supervision has the United States over state action? What power has the United States to acquire territory, and in what modes and for what purposes may it be exercised? What are the political and civil rights of the inhabitants of the territories? What are the incidents of citizenship, both national and state? These questions are fundamental, and a reasonable acquaintance with the answers that have been worked out through more than a century of national life, is invaluable to every American citizen. And we

know of no book which presents in so available a form the history and present status of this whole subject, as the book now before us. The decisions of the United States Supreme Court are of course the basis for such a treatise, and they have been carefully studied and well presented. The recent startling innovations in constitutional interpretation growing out of our Spanish War are discussed with vigor and impartiality in their various phases, the development of this branch of constitutional law being carried down through the case of *Gonzales v. Williams*, decided last year. In the present period of stress and strain, both domestic and international, into which recent events have carried us, such a book as this is particularly opportune, and a reading of it will do much to make clear the real significance of present national problems.

EDSON R. SUNDERLAND.

HANDBOOK OF THE LAW OF PUBLIC CORPORATIONS. By Henry H. Ingersoll, Dean of the University of Tennessee School of Law. St. Paul: West Publishing Company, 1904. pp. xvii, 738.

Judge Ingersoll has perhaps been as successful as it is possible to be, in his effort to treat in such small compass of subjects as important as those covered by the title "Public Corporations." He has followed the orthodox classification of public corporations into quasi, municipal and quasi public corporations. This is, of course, a field so large and one bristling with so many unsettled problems, that one could not hope to cover it exhaustively in a book of seven hundred pages. And so we find that Judge Ingersoll has not endeavored to trace the history of his subject nor to discuss many of the legal problems concerning it which have grown out of very recent conditions. For example, but one page (p. 608) is given to the question of municipal ownership, a problem which seems likely to become, if it is not already, the burning issue in municipal life. But the book should be estimated by the degree of success with which it serves the functions for which it was designed. It is not an original contribution to the literature of the subject, for it follows rather closely the treatment of the same subject by Judge Dillon and others, nor has it to any extent developed the field, for the author has made little use of recent case material, but it is a careful and concise statement of the elements of its field of law as developed in earlier works, which merits commendation and which should prove distinctly useful as a text-book for use in schools in which these topics are treated by text in one course. Perhaps a just criticism of the book is that comparatively few recent cases are cited. As an example of insufficient treatment in this respect may be mentioned the subject of the effect of recitals in municipal bonds, which are unauthorized or otherwise defective, upon the validity of such bonds in the hands of innocent purchasers. This is an important and much discussed topic, but Judge Ingersoll, in his treatment of it, has cited no case decided within the last fifteen years, and the latest United States Supreme Court case cited by him on this point is *Dixon County v. Field*, 111 U. S. 83, decided in 1884, thus entirely overlooking the important case of *Waite v. Santa Cruz*, 184 U. S. 302, in which the whole question is exhaustively discussed and put at rest so far as our highest court is concerned. Notwithstanding these